

THOMPSON PCS SYSTEMS INC.

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Office of the Secretary
Federal Communications Commission
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Washington, DC 20554

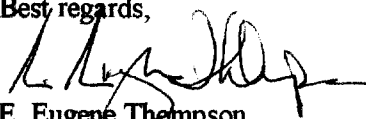
April 10, 1996

Dear Mr. Secretary:

Enclosed please find our comments on the NPRM proposed rules for D,E and F Block Broadband PCS Auctions(FCC96-119). We feel that in light of the abuse of DE rules that some large well financed companies are perpetrating, some rules need to be changed. We understand that your hands are tied to a great degree by recent rulings of the Federal Judiciary however, our story must be documented.

If you have any questions or wish to have me address any of my comments directly, you need only call.

Best regards,


E. Eugene Thompson

c: John Glenn, United States Senator, Ohio
Mike Dewine, United States Senator, Ohio
Tony P. Hall, United States Senator, 3rd District Ohio
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FCC 96-119 NPRM page 1

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Race Based Provisions

Prior to the Adarand ruling, we were very encouraged to start this business. Our business plan was strong and made us viable after three years. We were able to secure reliable financing from two venture capital firms. One of our venture capital firms actually called another venture capital firm and they *together* devised their funding strategy for our business. We were able to convince two banks to do some debt financing with us during our build out phase. We secured a strategic partner in a local exchange carrier to provide operating expertise while we built the company. We had been approached by a PCS consortium to partner with them for expanded market strategies. The preferences options in place for PCS made our start up company an excellent business enterprise. It seemed as though established telecommunications companies were working hard to create ways to work with minority and women owned businesses in the industry. After Adarand, it became business as usual for them and dreams deferred for us. With the announcement of the Adarand decision, our phone calls to both groups stopped being returned. Shortly afterward, all opportunities were dead and our "partners" either entered the auction with large foreign companies as their partners or made plans to enter the auctions alone.

I started Thompson PCS Systems after twenty years in the broadcast television industry. My experience included six years of operating two sales divisions in New York for a major television representative firm. Under my watch, we took an almost failing company and built it into a 400 million dollar business. My division grew from one division with 18 million dollars annual billing,

to two divisions with over 60 million dollars in annual billing in just under 5 years. My reasoning was that an African American male with this type of winning record needed to start his own business. I felt compelled to put that track record and know how to work for my own small business. There are a large number of experienced and well financed businesses in the telecommunications industry. The preference options gave TPCS a real opportunity to compete with these businesses with an established partner to help ensure a great degree of success. We had secured the help of two local venture capital firms and two local banks for funding. The venture capital firms dried up with the continued postponement of the "C" block auction, and when Adarand was decided, the local exchange carrier backed away. Most important, during that time I used almost \$20,000 of my personal savings to fund this disappointment.

Score: Sony/Hitachi 52 High Bids

TPCS/Local Business 0.

The point is that this country can ill afford to allow big international business to kill the competitive spirit of *any* American wishing to start a new business and especially if it serves to waste the proven talents of experienced American professionals. The result is to have one or two multinational monoliths that control the lives of American citizens because they are the only purveyors of a needed or vital service. This *is* a compelling governmental interest. We must do all that we can to reinstate PCS preference options for American minorities and American women as they were in place *before* Adarand. Finally, keep small business installment payments just for small business. They don't need anymore advantages over us.

Definition of Small Business

While we're sure that the "C" & "F" Block were created to provide true competition in the PCS industry, that hasn't happened as far as "C" block is concerned. There are very few "small businesses" winning BTA's. In fact, one "C" block "small business" has made almost 4 Billion dollars in high bids, which is almost twice as much as the largest winner in the "big business" A & B block auctions. It will be even more interesting to watch how American PCS Equipment manufactures will fare now that a consortium that includes Sony and Hitachi is the high bidder in the "C" block auction. It should be quite obvious that the criteria to qualify as a small business was far to lax. Perhaps the "F" block auction should be limited to start ups or businesses with far lower value. This would force strategic partners to come back to the real small businesses. Then the FCC could control the participation of these larger conglomerates through the small businesses license grants. In other words, to receive your license, you have to show *all* of your investors. Based upon that filing, licenses would be granted. If irregularities were discovered, the BTA's involved would be forfeited. Then, only the small businesses that participated in the F block auction would be allowed to purchase the forfeited BTA's at the winning bid price.

If there is one thing that I've learned during this process, it's that the true small businesses in the auction are primarily startups with less than 1 million dollars in assets. Another option might be to limit the bidders to their home BTA's or adjacent BTA's. Finally, to limit the number of BTA's that one small business could own. That would discourage large spectrum grabs and again force the larger operations to do business with small operators. It would also concentrate the Small businesses resources and revenues, fostering lower rates of business failures.

Scheduling the D, E and F Block Auctions

To expedite the F block auction in light of the recent travesty of the "C" block auction would be tragic. Let me remind you that Section 309(j) of the Omnibus Budget Reconciliation Act of 1993 expressly authorized the participation of businesses owned by minorities and women. To the extent that this provision has been honored, is yet to be established. While it is in everyone's best interest to conclude this auction as soon as possible, to rush to conclusion without adherence to the law would leave you open to continuing litigation and possible damages. The current process has left the door open to foreign business interests while slamming it shut to an entire spectrum of American citizens. It may be prudent to postpone the F block auction long enough to find ways to comply with the spirit of Section 309 (j). The delay is not as important as justice for all.

Discounted Upfront Payments

Discounted upfront payments, reduced down payments and installment payments for DE's and entrepreneurs should not be modified. If you do modify your DE rules, then by all means you should modify rules restricting designated entities ability to transfer PCS licenses. They should be able to sell them whenever desired or needed.

PCS Cross Ownership Rule

Relaxation of this rule would help some of us find new strategic partners. In some instances it could mean the difference of success or failure of our business. We could help them keep their market share and they could help us by providing operational expertise. Maybe we should say that it is all right but when they go over the 40 MHz limit that they must operate in concert with a designated entity or entrepreneur.